HON'BLE MR JUSTICE A. GOPAL REDDY

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WRIT PETITION NO.7005 OF 2006

DATE:10.04.2006

Between:

Nallapaneni Venkataratnam

..... PETITIONER

AND

The District Collector, Ongole,
Prakasam District & three others

.....RESPONDENTS

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W.P. No.7005 OF 2006

ORDER:

Petitioner is the fair price shop dealer of Modepalli village. Basing on certain allegations and upon the report of the fourth respondent, dated 18.3.2005, the Revenue Divisional Officer-third respondent by order dated 8.4.2005 suspended the authorization of the petitioner, against which, the petitioner preferred an appeal along with stay application to the Joint Collector-second respondent. As no interim orders were granted, the petitioner filed W.P.No.10808 of 2005 which was disposed of by this Court on 29.4.2005 directing the Joint Collector to dispose of the appeal filed by the petitioner within a period of 6 weeks. Accordingly, the Joint Collector disposed of the appeal on 30-09-2005 remitting the matter to the third respondent. On such remand, the third respondent issued show cause notice dated 22.10.2005 calling for explanation of the petitioner on the allegations levelled by the fourth respondent. While so, the first respondent-District Collector, through his orders dated 1.12.2005 stayed the order of the second respondent dated 30.9.2005 in a revision petition filed by some persons. Aggrieved by that, the petitioner filed W.P.No.27813 of 2005 and the same was disposed of by this Court by order dated 28.12.2005 setting aside the order of the first respondent dated 1.12.2005 with a direction to consider and dispose of the revision after giving reasonable opportunity to the petitioner as well as to the revision petitioners. Further, the third respondent, before whom the disciplinary proceedings are pending, was directed to consider the explanation of the petitioner and pass final orders within six weeks from the date of receipt of the order. Pursuant to the said direction, the third respondent passed the orders dated 6.3.2006 cancelling the

authorization of the petitioner. Aggrieved by the same, petitioner preferred an appeal before the second respondent on 16-03-2006 along with stay petition. Since no orders as such are passed on the stay petition, petitioner again moved this court by way of this writ petition questioning the cancellation of authorization by the third respondent.

It is well settled that when a statutory appeal is filed and pending, the same cannot be a subject matter of writ petition under Article 226 of the Constitution of India. Hence, no directions can be issued in this writ petition as sought for, except directing the appellate authority to dispose of the stay petition and the appeal, as the case may be, at an early date. (see ***BMRDA v. GOKAK PATEL VOLKART*** (1995) 1 SCC 642).

Under the above circumstances, the second respondent is hereby directed to dispose of the stay application within two weeks, if not already disposed of, and dispose of the appeal within a period of two months from the date of receipt of a copy of this order. It is needless to say any interim arrangement made pending appeal will be subject to result of the appeal.

The writ petition is dismissed with the above direction. No costs.

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A. GOPAL REDDY, J

10th APRIL, 2006.
Note: Isue C.C. in two days.
(B/o)
Tsr